

FILED
IN CLERKS OFFICE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

2005 FEB 11 P 1:49

U.S. DISTRICT COURT
DISTRICT OF MASS.

UNITED STATES OF AMERICA)

v.)

NEIL CARTER)

No. 04-CR-10397 -JLA

MOTION TO CONTINUE ARRAIGNMENT DATE

NOW COMES Neil Carter, defendant, and respectfully **MOVES** that his appearance for arraignment in this matter be continued from February 16, 2005 to a date no earlier than February 24, 2005. Counsel for Neil Carter notes also that he is unavailable from March 9, 2005 to March 21, 2005.

In support whereof, Carter states as follows:

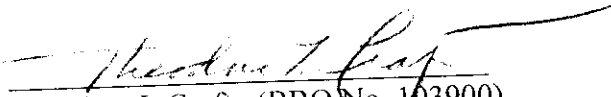
1. As of early December, 2004, the matter of a plea agreement as to which Carter would enter a plea of guilty to a misdemeanor under 26 U.S.C. 7207 was being discussed with Robert J. Livermore, Trial Attorney, Northern Criminal Enforcement Section, Tax Division, United States Department of Justice.
2. As of late December, 2004, neither Carter nor his attorney, Theodore L. Craft, knew whether or not a proposed plea agreement had been approved in the Department of Justice on behalf of the United States.

3. In late December, 2004, a signed plea agreement that had been approved by the Department of Justice on behalf of the United States was filed with the Court without the knowledge of Carter or his attorney.
4. Carter's attorney, Theodore L. Craft, learned in the afternoon of February 9, 2005 that Carter's Arraignment had been scheduled for February 16, 2005 at 10 o'clock in Courtroom 24 before Magistrate Judge Joyce London Alexander.
5. Carter's attorney, Theodore L. Craft, called Robert J. Livermore to inform him that he had made prepaid nonrefundable arrangements for vacation travel out of state on February 16, 17 and 18, and on March 10 through 18, 2005. These arrangements had been made before December 25, 2004. Attorney Livermore indicated that he would not be able to appear personally on February 16, 2005 in any case, and expressed no objection to a continuance. A conference call was initiated with Judge Magistrate Alexander's clerk, Rex Brown to advise that a Motion for Continuance would be filed expeditiously.
6. To permit Attorney Craft a meaningful opportunity to conduct an adequate preparation of his client for Arraignment, including discussion of and preparation for entry of a guilty plea on the plea agreement filed with the Court, as well as other matters pertaining to Pretrial Services, some reasonable period of time after February 18, 2005 will be required.
7. In the event of such continuance, defendant Carter waives his rights under the Speedy Trial Act (18 U.S.C. §§ 3161 et seq.)

WHEREFORE, Carter respectfully requests that this Honorable Court continue the Arraignment of this matter, to commence no earlier than February 24, 2005.

Respectfully submitted,

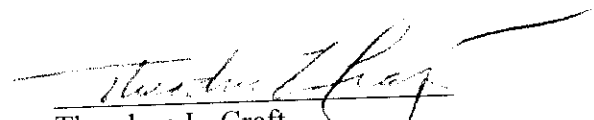
NEIL CARTER
By his attorney,


Theodore L Craft (BBO No. 103900)
49 Myrtle Street
Melrose, MA 02176
(781-665-6872)

Dated February 9, 2005

L.R. 7.1 CERTIFICATION

I, Theodore L. Craft, hereby certify that I have spoken with counsel for the Government about the matters described herein. Government counsel, Robert J. Livermore, has expressed no objection to this motion for a continuance on the grounds stated.


Theodore L. Craft

ACKNOWLEDGEMENT OF NO OBJECTION

I, Robert J. Livermore, hereby acknowledge that I have no objection to this Motion or to the continuance of this matter on the grounds stated.

Robert J. Livermore

Feb-09-2005 03:06pm From: U.S. ATTORNEY'S OFFICE

303 454 0402

T-251 P.0027002 F-028

FAX NO. : 781-662-2430

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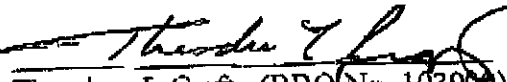
FROM : PT

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Respectfully submitted,

NEIL CARTER

By his attorney,


Theodore L. Craft (BBO No. 103900)
49 Myrtle Street
Melrose, MA 02176
(781-665-6872)

Dated February 9, 2005

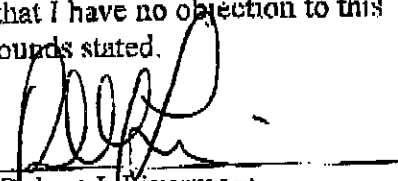
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Theodore L. Craft

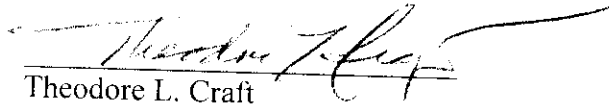
ACKNOWLEDGEMENT OF NO OBJECTION

I, Robert J. Livermore, hereby acknowledge that I have no objection to this Motion or to the continuance of this matter on the grounds stated.


Robert J. Livermore

CERTIFICATE OF SERVICE

I, Theodore L. Craft, hereby certify that, on the above date, a true copy of the above document was sent by facsimile for acknowledgment of no objection, and was thereafter served, by first-class mail, postage pre-paid, upon the Attorney for the Government, Robert J. Livermore, Trial Attorney, Northern Criminal Enforcement Section, Tax Division, United States Department of Justice.


Theodore L. Craft